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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/783,861	02/20/2004	Marvin Ryan	26509-4	7598
7590		11/28/2007		
Michael J. Roman c/o Clark, Wilson Suite 800 885 West Georgia Street Vancouver, BC V6C 3H1 CANADA				
			EXAMINER WENDELL, MARK R	
			ART UNIT 3635	PAPER NUMBER
			MAIL DATE 11/28/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

10/783,861

**Applicant(s)**

RYAN, MARVIN

**Examiner**

Mark R. Wendell

**Art Unit**

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 November 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                                            |                                                                                         |
|------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____                                                |

## DETAILED ACTION

The subsequent rejections are the same rejection made in the Office Action dated 4/30/2007. The examiner feels that the limitations **within the claims** are met and distinctly pointed out within the original Office Action.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

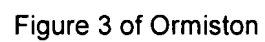
A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 6-9, 11-13, and 15-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Ormiston (US Patent 5755068).

With reference to Figure 3 (illustrated below) and Claim 7, Ormiston discloses the claimed invention including:

- Staggering a plurality of boards together (Claim 7, lines 9-11);
- Having the boards' respective adjacent faces abut (Figure 3);
- Having at least one of the boards' respective edges and the boards' respective ends collectively form a tongue and groove coupling (Claim 7, lines 12-15 and Figure 3);
- Fixing together the boards so staggered into a brick (Figure 3).



Regarding claims 2 and 12, Ormiston illustrates in Figure 1 at least one of the boards' respective edges and ends collectively forming a symmetrical predetermined tongue and groove coupling.

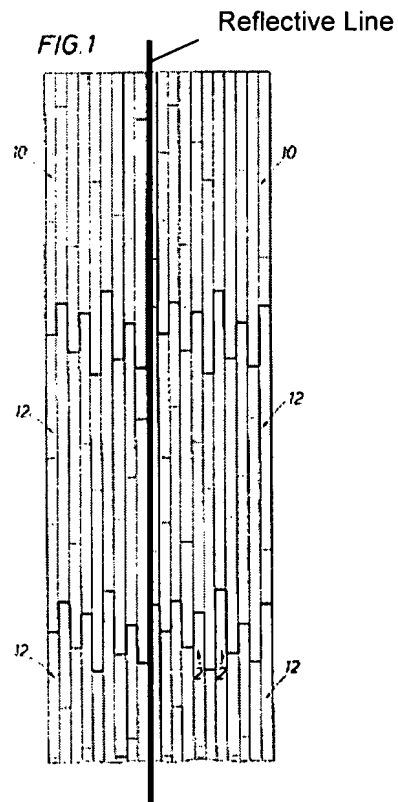


Figure 1 of Ormiston showing symmetry on each side of the Reflective Line

Regarding claims 3 and 13, Ormiston discloses using a pressure sensitive adhesive (PSA), considered a chemical bonding agent, to fix boards together (Column 4, lines 63-67).

Regarding claim 15, Ormiston illustrates in Figure 15 (pictured below) a group of boards' edges aligned in a common plane.

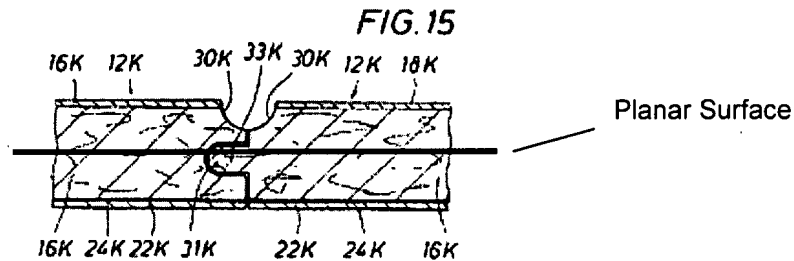


Figure 15 of Ormiston

Regarding claims 6, 7 and 16, Ormiston illustrates in Figures 10-13 raceways, or conduits, "extending through the entire thickness" of the panel (Column 6, lines 30-35).

Regarding claims 8, 9, 17 and 18, Ormiston illustrates, in Figure 12, raceways extending throughout the structure. Using a broad interpretation for the Figure, one of ordinary skill in the art could interpret the drawing as demonstrating one board divided into two portions, thus creating a raceway (as in claims 8 and 17), or boards being cut to different lengths assembled in a manner that creates a raceway (as in claims 9 and 18).

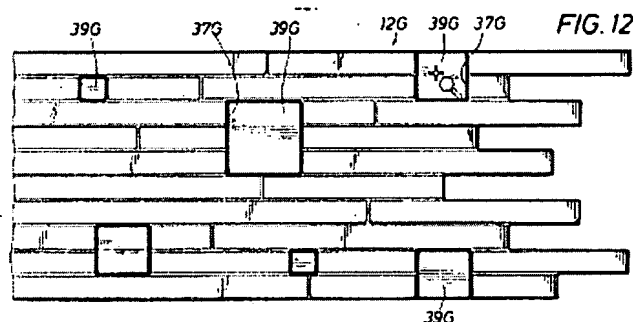


Figure 12 of Ormiston

Concerning the claimed method steps, given the structure of Ormiston as described above, the claimed method steps would be inherently performed when assembling the device of Ormiston.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 10, 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ormiston (US Patent 5755068) in view of Pedersen et. al. (US Patent 4688362).

Ormiston teaches the method and apparatus of a plurality of boards staggered together into a brick, where adjacent faces abut, and where edges and ends form a tongue and groove coupling.

Ormiston does not teach the apparatus and method of making a cross coupling on the brick, near the edge of a board.

However, Pedersen et. al. illustrates, in Figure 6, a cross coupling connection for separate boards, near the end of a board. With the motivation of enabling a user easily to unite board members and allow electrical wiring to fit within the grooves, it would be obvious to one of ordinary skill in the art to combine the cross coupling connection of Pedersen with the brick of Ormiston.

Regarding claim 10, given the structure of Ormiston and teachings of Pedersen described above, the claimed method step would be inherently performed when assembling the combined structure of Ormiston and Pedersen.

Claims 4, 5 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ormiston (US Patent 5755068) in view of Salazar (US Patent 4644719).

Ormiston teaches the method and apparatus of a plurality of boards staggered together into a brick, where adjacent faces abut, and where edges and ends form a tongue and groove coupling.

Ormiston does not teach the apparatus and method of boards being cut to the same nominal dimension before staggering.

However, Salazar illustrates in Figure 1 objects cut to the same nominal size staggered together. Salazar only discloses that the objects are the same nominal size and does not assign a specific material to each object. It would be obvious to one of ordinary skill in the art to build a structure following Salazar's design. This would require less work for the person constructing the object because measurements, vices, and templates would not need to be altered when cutting the material.

Regarding claims 4 and 5, the claimed method steps, given the structure of Ormiston and teachings of Salazar described above, the claimed method steps would be inherently performed when assembling the combined structure of Ormiston and Salazar.



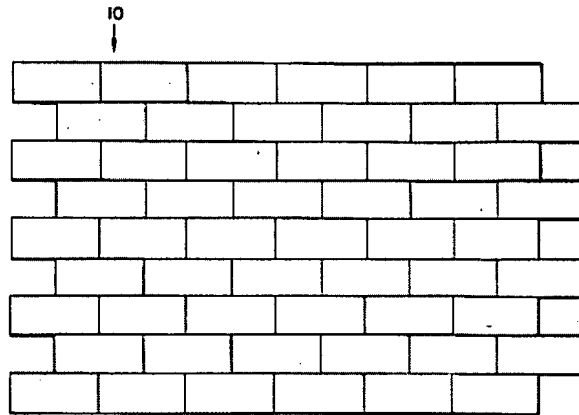


Figure 1 of Salazar illustrating boards being cut to the same nominal size

### ***Response to Arguments***

Applicant's arguments filed 11/8/2007 have been fully considered but they are not persuasive. The objection to the word "complemental" is withdrawn. Also, the examiner checked the wrong box in the original action and withdraws the objection to the drawings within the original Office Action Summary. The examiner respectfully disagrees with the argument: pertaining to the layers of Ormiston not being staggered. The definition of "staggered" is arranged in a systematic order. It is clearly shown within Ormiston's Figures that the boards are staggered, or arranged in a systematic manner. The applicant also correctly points out within the argument that Ormiston in fact refers to the joints between the boards being "staggered joints."

The examiner also respectfully disagrees with the argument pertaining to Ormiston not having raceways within the boards. The applicant correctly points out within the argument that Ormiston illustrates "cut-out portions" within the boards. The examiner

notes that a raceway is in essence a "cut-out" portion within the board allowing objects to pass through. Although Ormiston uses these raceways for decorative means, the allowance of an insert to be placed in the raceway clearly shows that an object can be put in or passed through these cut-outs, making them raceways.

The examiner does not find applicant's arguments persuasive to overcome the cited prior art. It appears for the specification that the applicant's invention is directed towards a vertically staggered, wooden structure with intricately staggered corner connecting joints. However, the claims do not clearly and definitively point out the involved limitations of the invention. The claims are broadly written and the limitations are met by the prior art of record.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Fisher (US Patent 6343454 B1) discloses a method of furniture assembly that improves aesthetic quality and provides attachment similar to tongue and groove coupling that is both strong and watertight. Hovland (US Patent 5638649) discloses a log siding for an existing structure and the method of constructing it. Doran (US Patent 4967528) discloses a construction block used in conjunction with other blocks to construct building panels. Thompson et. al. (US Patent 6253512 B1) discloses a method of applying tiles to a roof using a tongue and groove coupling method. Bezborodko (US Patent 4724638) discloses a decorative wall system for use in a modular home that is adhesively bonded to a backing panel.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark R. Wendell whose telephone number is (571) 270-3245. The examiner can normally be reached on Mon-Fri, 7:30AM-5PM, Alt. Fri off, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on (571) 272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Richard Chilcot  
Supervisory Patent Examiner  
Art Unit 3635

MRW  
November 20, 2007